

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) FRANKIE TIANA MAYFIELD,

Plaintiff,

v.

(1) SHAWN JAMES KIDD,
individually, and

(2) ACE AIR CONDITIONING, INC.,
a foreign for-profit corporation,

Defendants.

Case Number: CIV-20-1246-SLP

Removed from the District Court of
Oklahoma County, Oklahoma
Case No. CJ-2020-3672

NOTICE OF REMOVAL

COMES NOW Defendant ACE Air Conditioning, Inc. (“ACE”) by and through the undersigned counsel, and pursuant to 28 U.S.C. §§ 1441, *et seq.*, hereby gives notice of their removal of this action. In support, ACE alleges and states as follows:

1. Defendant ACE is one of two defendants in an action brought against them in the District Court of Oklahoma County, State of Oklahoma, styled *Mayfield v. Kidd, et al.*, Case No. CJ-2020-3672 (hereinafter, “the state court action”).

2. Upon information and belief, Plaintiff Frankie Tiana Mayfield is a citizen of the State of Missouri.

3. Defendant Shawn James Kidd (“Kidd”) is an individual and citizen of the State of Florida.

4. Defendant ACE is a corporation incorporated under the laws of the State of Florida with its principal place of business in the State of Florida.

5. On August 6, 2020, Plaintiff commenced the state court action by filing her Petition in the District Court of Oklahoma County, Oklahoma. As originally filed, Plaintiff's Petition named Kidd as the only Defendant.

6. On December 4, 2020, Plaintiff filed an Amended Petition in the state court action. The Amended Petition added ACE as a Defendant, along with Kidd.

7. Summarily, Plaintiff's Amended Petition alleges that on June 26, 2020, Kidd negligently operated a motor vehicle and caused Plaintiff's personal injuries. The Amended Petition further alleges that, at the time of incident, Kidd was acting in the course and scope of his employment or agency with ACE, and that ACE is therefore vicariously liable for the damages Kidd allegedly caused. The Amended Petition further alleges ACE negligently entrusted the vehicle to Kidd, negligently hired Kidd, and negligently retained Kidd. The Amended Petition alleges Plaintiff sustained damages as a result of the Defendants' negligence and demands judgment against the Defendants in excess of the amount required for diversity jurisdiction under 28 U.S.C. § 1332.

8. This Court would have had original jurisdiction over this matter when it was first filed on August 6, 2020, and it also would have had jurisdiction over this matter after it was amended on December 4, 2020. The parties to this action are completely diverse and the damages Plaintiff seeks are in excess of the amount in controversy required under 28 U.S.C. § 1332(a), giving this Court diversity subject matter jurisdiction. Further, because this matter is removed from the District Court of Oklahoma County, Oklahoma, venue for this action is proper in this Court. *See* 28

U.S.C. § 1441(a) (action to be removed “to the district court of the United States for the district and division embracing the place where such action is pending”).

9. Removal of this action is timely. Defendant ACE did not become a party to the state court action until December 4, 2020, and ACE learned of their addition to the state court action less than a week thereafter after finding the Amended Petition online on the Oklahoma State Courts Network (www.oscn.net). ACE has removed this action within thirty (30) days of the dates in which they were added to the state court action and learned of the same. *See* 28 U.S.C § 1446(b)(2)(B).

10. Pursuant to 28 U.S.C. § 1446(a) and LCvR81.2(a), copies of all materials filed in the state court action, and a copy of the state court action’s docket sheet obtained online from the Oklahoma State Courts Network website (www.oscn.net) on December 11, 2020, are attached as follows:

- a. Petition (filed Aug. 6, 2020), attached as “Exhibit ‘1’”;
- b. Affidavit of Non-Service as to Defendant Kidd (filed Sept. 17, 2020), attached as “Exhibit ‘2’”;
- c. Affidavit of Service as to Defendant Kidd (filed Oct. 23, 2020), attached as ‘Exhibit ‘3’”;
- d. Amended Petition (filed Dec. 4, 2020), attached as “Exhibit ‘4’”;
and
- e. OSCN.net Docket Sheet, attached as “Exhibit ‘5’”.

11. Consistent with 28 U.S.C. § 1446(b)(2)(A), (C), undersigned counsel can advise that they also represent Defendant Kidd and that Kidd consents to this removal.

WHEREFORE, Defendant ACE Air Conditioning, Inc., having effected removal of this action, prays this Court assume jurisdiction accordingly.

Respectfully submitted,

ACE AIR CONDITIONING, INC.

- Defendant

By: /s/Tyler J. Coble
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the same date this Notice of Removal was filed in the United States District Court for the Western District of Oklahoma, a true and correct copy of said Notice of Removal was served by mailing a true and correct copy of the same to the following:

Larry E. Finn
PARRISH DEVAUGHN, PLLC
7 Mickey Mantle, Second Floor
Oklahoma City, OK 73104
ATTORNEY FOR PLAINTIFF

I further certify that a copy of this Notice of Removal was hand-delivered to the Court Clerk of the Oklahoma County District Court, 320 Robert S. Kerr Ave., 409 County Office Bldg., Oklahoma City, OK 73102.

/s/Tyler J. Coble